

Internal Revenue Service

Department of the Treasury

District
Director

[REDACTED]
Date: AUG 28 1997

Employer ID Number: [REDACTED]

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply To: [REDACTED]

[REDACTED]
Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED]. Your purposes, as stated in your Articles of Incorporation, "...shall be the operation and management of the affairs, business, and activities of [REDACTED], and as such shall be duly benevolent, beneficial, and charitable. The object of the corporation's educational, and charitable purpose is to benefit the public for educational and benevolent functions in the country."

Your organization will produce [REDACTED] dolls, one of the Virgin Mary and one of the Infant Jesus, with an accompanying booklet for little children telling the story of who these two are. You will sell the dolls, accompanied by the booklet, for [REDACTED] each, which is comparable to for-profit sales. You intend to set aside one of your products to be given to shelters, hospitals, orphanages, schools, or missions for every two of your products that you sell.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

- "(3) Corporations,*** fund, or foundation, organized and operated exclusively for religious, charitable, scientific, *** literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings which inures to the

benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that:

"An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3)..."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(a)(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

"(c)(1) Primary activities. An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

"(c)(2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals."

In Better Business Bureau of Washington D.C. v United States 326 U.S. 279 (1945) the Court held that a better business bureau was not exclusively educational. Its activities were in part aimed at promoting the prosperity and standing of the business community, even though there was also benefit to the public. The court stated that, in order to fall within the claimed exemption, an organization must be devoted to exempt purposes exclusively. The presence of a single nonexempt purpose, if substantial in nature, will destroy exemption regardless of the number and importance of truly exempt purposes.

In Living Faith, Inc. v Commissioner a non-for-profit corporation that operated vegetarian restaurants and health food stores did not operate exclusively for exempt purposes and did not qualify as a tax-exempt organization. Although the restaurants and health food stores were operated to further the dietary goals of the Seventh Day Adventist church, the court found that the purpose of the restaurants and health food stores was substantially commercial.

You are not operated for exclusively charitable or religious purposes as required by section 501(c)(3) of the Code. You are intending to manufacture and sell dolls in a commercial manner, and are not engaging primarily in activities which accomplish one or more exempt purposes as specified in the Regulations.

Although the dolls and the booklet will have a religious theme, the manufacture and selling of dolls and books to the public is a business purpose. You intend to contribute some of these dolls to the needy, however, as the Better Business case shows, an organization must be devoted to exempt purposes exclusively. The presence of a single nonexempt purpose, if substantial in nature, will destroy exemption regardless of the number and importance of truly exempt purposes.

Like the organization in Living Faith, you are not operating for exclusively religious purposes and do not qualify for exemption under section 501(c)(3). Although your dolls and booklet have a religious meaning, the sale of dolls and books is not exclusively religious.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal income tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3). You are required to file Federal income tax returns on Form 1120.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Code as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code

provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

Ellen Murphy

Ellen Murphy
Acting District Director

Enclosures:
Publication 892
Form 6018